

BEFORE THE TENNESSEE REGULATORY AUTHORITY

NASHVILLE, TENNESSEE

April 7, 2000

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REGULATORY AUTH.

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OFFICE OF THE
EXECUTIVE SECRETARY

IN RE:

TARIFF FILING BY BELL SOUTH
TELECOMMUNICATIONS, INC.,
TO REDUCE GROUPING RATES
IN RATE GROUP 5 AND IMPLEMENT
A 3 PERCENT LATE PAYMENT CHARGE

DOCKET NO.
00-00041

REPORT AND RECOMMENDATION OF PRE-HEARING OFFICER

Background

On January 21, 2000, BellSouth Telecommunications, Inc. ("BellSouth") filed a tariff to reduce the grouping rates in Rate Group 5 (Memphis and Nashville metropolitan areas) and to impose a three percent (3%) late charge on the unpaid balances of all customers' bills. The effective date for BellSouth's tariff was February 22, 2000. On February 1, 2000, the Tennessee Regulatory Authority ("Authority") sent a data request to BellSouth; BellSouth filed its response on February 8, 2000. At the regularly scheduled Authority Conference on February 15, 2000, the Authority suspended the tariff for sixty (60) days.

The Consumer Advocate Division of the Office of the Attorney General ("CAD") filed a *Complaint, or Alternatively, Petition to Intervene and Petition for Stay* on February 14, 2000. BellSouth responded to the CAD's Complaint on March 3, 2000.

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At the February 15, 2000, Authority Conference, in addition to suspending the tariff, the Directors appointed a Pre-Hearing Officer to address issues raised by the filing of the Complaint, and to prepare this matter for hearing.

By Notice of February 25, 2000, a Pre-Hearing Conference was scheduled for March 15, 2000. This Notice specified that any interested party desiring to participate in this Pre-Hearing Conference must file a Motion to Intervene as well as a list of its proposed issues by March 8, 2000. The Notice further specified that the Pre-Hearing Conference intended to address the following items:

1. Consideration of Motions to Intervene;
2. Consideration of Issues to be addressed in this proceeding;
3. Setting a procedural schedule to completion; and
4. Consideration of filing stipulations/admissions of fact and documents.

Pre-Hearing Conference

The Pre-Hearing Conference was held on March 15, 2000, before Gary Hotvedt, Counsel, designated as Pre-Hearing Officer. The parties in attendance were:

BellSouth Telecommunications, Inc. – **Guy Hicks, Esq.**, 333 Commerce Street, 22nd Floor, Nashville, TN 37201-3300;

Consumer Advocate Division of the Office of the Attorney General – **L. Vincent Williams, Deputy Attorney General**, Consumer Advocate Division, 425 Fifth Avenue, North, Second Floor, Nashville, TN 37243.

At the Pre-Hearing Conference, relative to the first item in the Notice, the Pre-Hearing Officer granted the CAD's *Petition to Intervene* without objection from BellSouth.

Relative to the second noticed item, the Pre-Hearing Officer granted the CAD's *Motion for Extension of Time to Submit Issues* and *Motion to Submit Supplemental Issues*, also without objection from BellSouth. After considering the issues submitted by both parties, the Pre-

Hearing Officer determined the substance of the prime issues in this matter, and the parties agreed to work on how these two issues would be articulated. Pursuant to a filing of March 22, 2000, BellSouth and the CAD jointly submitted the following issues:

1. Does the late payment charge proposed in BellSouth's Tariff 00-00041 constitute an impermissible rate increase for basic local exchange service under Tenn. Code Ann. § 65-5-209?
2. When BellSouth bills for services on behalf of other telecommunications companies, does it have a right, independent of its agreement with the telecommunications companies for which it bills, to charge its proposed late payment charge to the consumer, in the event a consumer pays the bill late?

The Pre-Hearing Officer next addressed item four (prior to item three), as any decisions relative to "stipulations/admissions of fact and documents" would impact on the procedural schedule. After discussion with the parties, the conclusion was reached that the necessity for live testimony at the hearing could not be determined until after each party's review of the other party's discovery responses. Both parties were amenable to limiting, if possible, live testimony at the hearing; with the parameters of any such limitation to be determined at a future pre-hearing conference.

Before determining a procedural schedule (Notice item three), the parties wanted to know what the parameters would be relative to discovery. After considering the proposals and arguments from each party, the Pre-Hearing Officer determined that discovery would be limited to forty-five (45) requests. Any party that required more than forty-five (45) requests would need to show good cause for such additional requests.

Proposed Procedural Schedule

After discussion, the parties agreed to the following procedural schedule:

Discovery Requests Due: March 23, 2000

Protective Order Entered: April 5, 2000

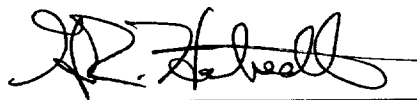
Discovery Responses Due: April 6, 2000

Status Conference Call: April 14, 2000

On Friday, April 7, 2000, the Pre-Hearing Officer requested of each party via telephone, that any "responses to discovery objections" or "motions to compel discovery" be filed with the Authority by 2:00 p.m., Thursday, April 13, 2000. Any such filing(s) and any related discovery disputes will then be the first item for discussion at the status conference call, currently scheduled for 11:00 a.m., Friday, April 14.

Recommendations

- (1) The Pre-Hearing Officer **recommends** that the Authority approve this report, including the intervention, the list of issues and the above-procedural schedule; and
- (2) The Pre-Hearing Officer **recommends** that this tariff be re-suspended for an additional sixty (60) days to allow adequate time for hearing.



Gary Hotvedt, Pre-Hearing Officer

ATTEST:



K. David Waddell, Executive Secretary